

Private foundations; support of foreign organization. An organization that is organized and operated in support of a foreign, rather than a domestic, organization meeting the requirements of section 509(a)(1) and (a)(2) of the Code and that otherwise meets the requirements of section 509(a)(3) qualifies as an organization described in that section.

Advice has been requested whether an organization that otherwise meets the requirements of section 509(a)(3) of the Internal Revenue Code of 1954 and the Income Tax Regulations thereunder qualifies as an organization described in section 509(a)(3) where the organization is organized and operated in support of a foreign rather than a domestic organization.

Section 509(a)(1) of the Code provides that the term 'private foundation' does not include a domestic or foreign organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)).

Section 1.509(a)-2(a) of the regulations provides that an organization may qualify as a section 509(a)(1) organization regardless of the fact that it does not satisfy section 170(c)(2) of the Code because it was created or organized other than in, or under the law of, the United States, any State or territory, the District of Columbia, or any possession of the United States.

Section 509(a)(3) of the Code requires that the organization support a section 509(a)(1) or (2) organization. The provision is silent as to whether the supported organization must be a domestic or foreign organization.

Accordingly, an organization which otherwise meets the requirements of section 509(a)(3) of the Code and the regulations thereunder qualifies as an organization described in section 509(a)(3) where it supports a foreign organization described in section 501(c)(3) that otherwise meets the requirements of section 509(a)(1) and (a)(2), and the regulations thereunder.